

October 11, 2016
Commission's Secretary
Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, DC 20554
Deena Shetler: deena.shetler@fcc.gov
FCC Contractor: fcc@bcpiweb.com
Re: WC Docket No. 06-210
CCB/CPD 96-20

PETITIONERS FURTHER COMMENTS
TO AT&T's SEPTEMBER 30, 2016 COMMENTS

1) These reply comments are on behalf of the 4 Inga Companies (One Stop Financial, Inc., Groups Discounts, Inc., Winback & Conserve program, Inc., and 800 Discounts, Inc.). Herein further referred to as petitioners or Inga Companies or petitioners.

2) The facts presented are not in dispute between the parties. Petitioners have therefore clearly met the criteria under the Administrative Procedures Act to request the Commission to issue orders that AT&T has violated both its Tariff No 2 and the FCC *October 1995 Order*.

3) AT&T has asserted that its settlement with CCI has somehow caused the Inga Companies to abandon its claims on a **Joint Petition**. The DC Circuit Court explicitly understood CCI and AT&T settled and the Inga Companies still had claims. The District Court found that the Inga Companies claims were not compromised. The NJFDC Judges Bassler and Wigenton also were exposed to AT&T's argument but it fell on deaf ears. CCI's president Larry Shipp Certification in petitioners initial **2006 filing Exhibit E para 4** also noted that in the case between CCI and Inga Companies that Judge Hayden also stated the Inga Companies claims were not compromised with the CCI/AT&T settlement.

- 4) It should be noted, that after CCI's settlement with AT&T, Judge Hayden found in the case between the Inga Companies and CCI, that CCI did not compromise the Inga Companies continued claims against AT&T when settling with AT&T. Judge Hayden made this decision based upon her reviewing the sealed confidential AT&T-CCI settlement agreement.

4) When the plans were transferred to CCI in May 1995, CCI still did not receive any compensation as the agreement with CCI was to only receive **additional margin**. Since there was no **additional** margin CCI was not supposed to collect anything as these end-users continued to be the Inga Companies 100%. See CCI certification page 1 para 6) below stating Inga gets 80% of the **additional** margin. Inga Companies got 100% of the base margin on its accounts which amounted to 98% of the traffic transferred to PSE and 80% of any additional margin.

- 6) The Inga Companies were CCI's largest company, and CCI agreed to provide the Inga Companies with 80% of any additional margin it would earn on Inga Companies accounts from plans that were transferred to CCI. It was CCI's plan to obtain these additional discounts through

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a new Contract Tariff, or as a back-up, while waiting on the contract tariff, by placing the traffic in a deeply discounted plan CT 516 available from Public Service Enterprises (PSE).

5) Under the agreement that PSE, CCI and Inga Companies had the payments from PSE were to be paid **separately** as CCI certification states in its certification **Exhibit E** in petitioners initial filing in 2006 below at para 8. As petitioners have explained PSE was to keep 20% and then **2 checks** were to get cut 1) One to CCI for its 20% of what PSE was paying out and 2) the second check directly to the Inga Companies for 80% of what PSE was paying out. See Larry Shipp certification **Exhibit E of initial 2006** comments in para 8:

discount. The CT 516 was set up to have the end-users get 28% and the 38% supplemental discount would be paid by AT&T to PSE. PSE was to then pay CCI and the Inga Companies  separately. This transfer of accounts (traffic) to PSE was denied by AT&T and is now the subject  of an ongoing dispute between the Inga Companies and AT&T.

9) As mentioned earlier, CCI and the Inga Companies wanted their own Contract Tariff – and

6) If the traffic was transferred to PSE then PSE would send a check directly to the Inga Companies. Even if AT&T settled with CCI how does AT&T stop the payment flow of the traffic on PSE's plan that Inga Owned 100% margin on? It makes absolutely no sense! Whether or not CCI settled does not impact the cash flow on the traffic that was going directly from PSE to Inga Companies. The only way the Inga Companies were going to participate in the deal was that the Inga Companies got paid 100% on its base traffic and 80% on additional margin and were paid **directly by PSE.**

7) AT&T's settlement as of July 1, 1997 was **only to compensate CCI** as that settlement agreement explicitly referenced the Inga Companies continued claims; as CCI had to cooperate with AT&T to defend AT&T against the Inga Companies continued claims. By definition AT&T could not compensate the Inga Companies by settling with CCI as the Inga Companies cash flow would have been from PSE. Furthermore, even if PSE was to pay CCI and CCI pay Inga Companies it still would not be a settlement of Inga Companies claims. If AT&T settled with CCI and actually believed it also settled the Inga Companies claims it would have been **tortious interference** with the CCI, Inga, PSE agreement.

8) AT&T has also stated that PSE went into shortfall. If the Inga Companies \$54.6 million of traffic was to transferred to PSE, then PSE would **not** have had a revenue deficit and would not have gone into shortfall. When traffic is transferred to PSE (either under 2.1.8 or 3.3.1.Q bullet 4 ----PSE does not assume any revenue commitment. Therefore, the \$54.6 million traffic to PSE would have been way more than enough to meet its revenue commitment without needing to restructure.

9) AT&T claims that it settled with CCI and somehow it impacted the Inga Companies cash flow and destroyed any additional claims to damages due to AT&T's tariff violations and violation of the FCC October 1995 Order. Impossible! AT&T doesn't explain how its settlement with CCI would stop PSE from paying the Inga Companies. PSE certainly would enjoy the extra revenue and if PSE did not pay the Inga Companies then Daniel Borislow who owned Tele-Save that also had CT-516 said he would be happy to pay 90% instead of 80% that PSE was paying out. Petitioners simply trusted Frank Scardino more than Daniel Borislow. Because Petitioners believed the traffic only transfer would bring AT&T to the table to get its own CT the additional 10% with Tele-Save was not a major factor. Because the RVPP is a 2 months lagging credit the Inga Companies could have moved the traffic from PSE before any shortfall and put the account on Tele-Save. So even if PSE had a shortfall it didn't matter as AT&T could only remove the discount of the end-users even if the accounts stayed on PSE plan.

10) The Inga Companies had LOA on all its end-users before and after the May 1995 plan transfer and could move the traffic to Tel-Save if it wanted. The end-user locations were **not** under a time or revenue commitment to CCI or PSE. CCI committed to give PSE 30 days to transfer the traffic back but the Inga Companies were not under any 30 day waiting period with PSE. The Inga Companies owned the traffic and could take it back any time it wanted without waiting 30 days. AT&T's faulty logic that its' settlement with CCI harms the Inga Companies makes absolutely no sense at all on so many levels. Of course AT&T can't explain how settling CCI's CSTPII/RVPP plan in July 1997 that would have a few accounts left on it impacted the Inga Companies. If the Inga Companies wanted to take its traffic back from PSE or CCI there was nothing AT&T could do to prevent this.

11) CCI didn't care that it held the plans as the plans were pre June 17th 1994. If the Inga Companies after May 1995 wanted a CSTPII plan it could have ordered the basic \$600,000 per year commitment that would have provided the exact same 28% discount. Under AT&T's tariff it could not prohibit the Inga Companies from ordering a minimum revenue commitment of \$600,000 per year CSTPII/RVPP EBO. It would not matter if the new plan post May 1995 was a post June 17th 1994 plan as the Inga Companies revenue was \$54.6 million per year! In just one month the Inga Companies would have met its fiscal year commitment under a \$600,000 per year plan. The answer as to why the Inga Companies did not do this is because it had a moral

obligation to CCI—nothing contractual. Petitioners always believed that it would one day win the case and a Judge would make AT&T pay dearly for the fraud.

12) If AT&T is claiming that the compensation to CCI was **cash plus not having to pay \$80 million in charges** then AT&T must also agree that the Joint petitioner Inga Companies were entitled to at least 4X what CCI received. For Example: If CCI received \$80 million in waiver of charges plus \$22 million in cash, that would be \$102 million in compensation to CCI. Since the Inga Companies were to receive 80% and CCI 20% then the Inga Companies compensation is 4 X \$102 million= \$408 million **plus interest**; as CCI got its compensation package from AT&T way back on July 1, 1997. With interest the Inga Companies compensation is over \$1 billion. Also CCI has already put AT&T on notice that it is going to seek a fraud in the inducement claim against AT&T as AT&T knew the \$80 million service charge waiver that AT&T claimed was part of CCI's compensation was bogus. CCI will be seeking that AT&T pay cash of \$80 million instead of the waiver as AT&T has already agreed to the value of the CCI compensation package. Also the Inga Companies and PSE are now negotiating the Inga Companies taking over PSE's 20% share of the 38% compensation. If the traffic should have been transferred PSE would have obviously benefitted in cash and traffic to meet revenue commitments and thus PSE's Frank Scardino is monitoring the AT&T fraud.

13) Below is the email that AT&T never responded to:

From: AL [mailto:townnews@optonline.net]

Sent: Thursday, October 06, 2016 10:12 AM

To: Brown, Richard <rbrown@daypitney.com>; Deena Shetler <Deena.Shetler@fcc.gov>; ray@grimes4law.com; Phillip Okin (pokin@giantpackaging.com) <pokin@giantpackaging.com>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>

Subject: Richard Brown....-

Richard---Would like to comment before we upload this to the FCC server?

If you look at the AT&T Network Services Commitment Form that 800 Services, Inc. submitted to AT&T on July 22nd 1994 for CSTPII/RVPP EBO plan ID 3093 it **explicitly requested a restructured upgraded plan** as the UPGRADE BOX option was checked –Not the NEW PLAN Box option.

The AT&T Network Services Commitment form was counter signed by AT&T executive Scott London. The AT&T Network Services Commitment Form is **EXHIBIT G** in the AT&T vs 800 Services, Inc. case.

Therefore, 800 Services, **elected to maintain its pre June 17, 1994 terms and conditions on that July 1994 restructure.** When 800 Services, Inc went to restructure a second time in 1995 ---which was still within the 3-year commitment period-----AT&T intentionally lied to 800 Services, Inc.'s' president Phil Okin that 800 Services, Inc. "**no longer qualified for a penalty free restructure**" --based upon AT&T's tariff interpretation of 1 post June 17th 1994 restructure. Based upon AT&T's tariff interpretation 800 Services, Inc., did not restructure.

In November of 1995 AT&T hit 800 Services, Inc. with the shortfall and termination charges. AT&T by the October 1995 was already under the *FCC October 1995 Order* but **never filed at the FCC the substantial cause test** to determine how many times within a 3-year period a pre June 17, 1994 plan can be restructured without penalty.

If AT&T in October 1995 had its substantial cause test answer from the FCC regarding this restructure question, then it already would have known the answer well before AT&T hit the Inga Companies plans 8 months later in June of 1996. That June 17, 1994 issue would have not only resolved the charges hit against my companies plans in June 1996 ---it would have also resolved the fraudulent use defense as being meritless. Obviously AT&T could not suspect shortfall when the Inga Company plans continued to be under the pre June 17th 1994 terms and conditions.

So when AT&T screwed 800 Services, Inc it also screwed the Inga Companies. Now there would be nothing better for AT&T than the FCC to not address the shortfall issues and FCC October 1995 Order so AT&T can go back to Judge Wigenton and falsely say that Judge Politan said it was OK to allow only 1 restructure and it was ok to charge more than the discount.

Deena--- AT&T having already engaged in a fraud on 800 Services, Inc and scammed Judge Politan silly in the 800 Services, Inc. case is now attempting to use that fraud against the Inga Companies. This is even more reason why the FCC has to address the FCC October 1995 Order and the duration of the immunity under the pre June 17, 1994 exemption.

Al Inga

Group Discounts, Inc.

END OF EMAIL

Al Inga President

Group Discounts, Inc